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ASSEMBLY, No. 3861

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SYNOPSIS

“Louisa Carman Medical Debt Relief Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Financial Institutions and Insurance Committee on June 13, 2024, with amendments.

(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning the report and collection of medical debt and
2 supplementing ²[Title 56 of the Revised Statutes] P.L.1997,
3 c.172 (C.56:11-28 et seq.)².
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. P.L. , c. (C.) (pending before the Legislature as this
9 bill) shall be known and may be cited as the “Louisa Carman
10 Medical Debt Relief Act.”
11

12 2. As used in P.L. , c. (C.) (pending before the Legislature
13 as this bill):

14 “Collection action” means any ¹[of the following] action ²[or
15 inaction]² on the part of a medical creditor with respect to a medical
16 debt, and includes, but is not limited to¹:

17 (1) selling ²[an individual's] a patient's² debt to another party;

18 (2) reporting ¹[adverse]¹ information about the patient to a
19 consumer reporting agency; or

20 (3) actions related to the collection of ²[an individual's] a
21 patient's² debt to another party that require a legal or judicial process,
22 including but not limited to placing a lien on ²[an individual's] a
23 patient's² property, attaching or seizing ²[an individual's] a patient's²
24 bank account or any other personal property, commencing a civil
25 action against ²[an individual] a patient², or garnishing ²[an
26 individual's] a patient's² wages.

27 ²[¹The term “collection”] “Collection² action” shall not include:
28 reasonable attempts by a medical creditor to send an invoice or bill to
29 ²[an individual] a patient², ²[which shall include sending an invoice
30 or bill and one reminder] or reminders² to pay an invoice or bill; ²or²
31 collecting a copayment ², coinsurance, deductible, or payment² from
32 the ²[individual] patient² at the point of service²]; or, in the case of a
33 nursing home that is providing health care services to a patient, placing
34 a lien on the patient's primary residence or personal property to collect
35 medical debt]².¹

36 "Consumer reporting agency" means any person ¹or entity¹ which,
37 for monetary fees, dues, or on a cooperative nonprofit basis, regularly
38 engages, in whole or in part, in the practice of assembling or
39 evaluating consumer credit information or other information on
40 consumers for the purpose of furnishing consumer reports to third
41 parties, and which uses any means or facility for the purpose of
42 preparing or furnishing consumer reports.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AFI committee amendments adopted May 20, 2024.

²Assembly AFI committee amendments adopted June 13, 2024.

1 ²1“Essential living expenses” means expenses for any of the
2 following: rent or house payment and maintenance; food and
3 household supplies; utilities and telephone; clothing; medical and
4 dental payments; insurance; school or child care; child or spousal
5 support; transportation and auto expenses, including insurance, gas,
6 and repairs; laundry and cleaning; and other similar expenses.】

7 “Cosmetic medical procedure” means any medical procedure
8 performed on a patient that is primarily directed at improving the
9 procedure subject's appearance and that does not meaningfully
10 promote the proper function of the body or prevent or treat illness or
11 disease and any other cosmetic procedure or service not deemed to be
12 medically necessary, as that term is defined pursuant to section 4 of
13 P.L.2023, c.296 (C.17B:30-55.3). “Cosmetic medical procedure” does
14 not include reconstructive surgery or dentistry.²

15 “Health care facility” means health care facility as defined in
16 section 2 of P.L.1971, c.136 (C.26:2H-2).

17 “Health care provider” means a person or entity which, acting
18 within the scope of its licensure or certification, provides a health care
19 service. Health care provider includes, but is not limited to, a
20 physician, dentist and other health care professionals licensed pursuant
21 to Title 45 of the Revised Statutes, and a hospital and other health care
22 facilities licensed pursuant to Title 26 of the Revised Statutes.¹

23 “Health care service” means the preadmission, outpatient,
24 inpatient, and post discharge care provided ¹【in or】¹ by a health care
25 facility ¹or a health care provider¹, and such other items or services as
26 are necessary for such care, including but not limited to medical
27 devices, which are provided for the purpose of health maintenance,
28 diagnosis, or treatment of human disease, pain, injury, disability,
29 deformity, or physical condition, including, but not limited to, nursing
30 service, home care nursing, and other paramedical service, ambulance
31 ¹【service】 and other medical transport services¹, dental and vision
32 services, service provided by an intern, resident in training or
33 physician whose compensation is provided through agreement with a
34 health care facility, laboratory service, medical social service, drugs,
35 biologicals, supplies, appliances, equipment, bed and board, including
36 services provided by a health care professional in private practice.
37 ²“Health care service” shall not include cosmetic medical procedures.²

38 ²1“Household income” means the combined income of all
39 household members determined by the most recent State income tax
40 returns.】²

41 “Medical creditor” means any ¹person or¹ entity that provides
42 health care services and to whom a patient owes money for health care
43 services, or the entity that provided health care services and to whom
44 the patient previously owed money if the medical debt has been
45 purchased by one or more debt buyers.

46 “Medical debt” means a debt arising from the receipt of health care
47 services. “Medical debt” ²【does】 shall² not include¹:¹ debt charged to

1 a credit card unless the credit card is issued under an open-end or
2 closed-end credit plan offered ¹【specifically】 solely¹ for the payment
3 of health care services ¹【or goods】 ²or goods²; debt arising from
4 services provided by a veterinarian; debt charged to a home equity or
5 general purpose line of credit; ²debt arising from an insurance
6 payment for the health care provider’s services but retained by the
7 subscriber;² or secured debt¹.

8 “Medical debt buyer” means a person or entity that is engaged in
9 the business of purchasing medical debts for collection purposes,
10 whether it collects the debt itself or hires a third party ¹billing entity¹
11 for collection or an attorney-at-law for litigation in order to collect
12 such debt.

13 “Medical debt collector” means any person ¹or entity¹ that
14 regularly collects or attempts to collect, directly or indirectly, medical
15 debts originally owed or due or asserted to be owed or due to another.
16 A medical debt buyer is considered to be a medical debt collector for
17 all purposes.

18 “Patient” means the person who received health care services, and
19 for the purposes of P.L. , c. (C.) (pending before the Legislature
20 as this bill) includes a parent or legal guardian if the patient is a minor,
21 or a legal guardian if the patient is an adult under guardianship ¹or any
22 other person liable or allegedly liable for any financial obligation
23 incurred for health care services.

24 “Personal property” means real property and movable property not
25 affixed to land, and includes, but is not limited to, bank accounts,
26 motor vehicles, goods, merchandise, and household items.

27 “Reasonable payment plan” means ²【monthly payments that are
28 not more than five percent of a patient’s household income for a
29 month, excluding deductions for essential living expenses】 a
30 structured repayment arrangement that satisfies the following:

31 (1) monthly payment amounts shall be set at a level that the patient
32 can reasonably afford or not more than three percent of the patient’s
33 monthly income, if known by the medical creditor or medical debt
34 collector;

35 (2) the duration shall allow the patient to repay the debt in full
36 within a reasonable timeframe, which shall include, but not be limited
37 to, a timeframe that is between six months and five years in length,
38 based on the total amount owed and the patient’s financial capacity;

39 (3) the plan shall include provisions for adjusting the payment
40 amounts and duration in response to significant changes in the
41 patient’s financial circumstances;

42 (4) the terms of the payment plan shall be clearly documented in a
43 written agreement provided to the patient, including the total amount
44 owed, the monthly payment amount, the payment schedule, and any
45 interest;

46 (5) the plan shall provide a grace period of at least 60 days for late
47 payments; and

1 (6) the plan shall not charge an interest rate on a medical debt of
2 more than three percent per annum².

3 “Third party billing entity” means a person or entity that is paid by
4 a health care provider or medical debt buyer to process claims or
5 claims payments on behalf of the health care provider¹.

6
7 ¹[3.No consumer reporting agency may make any consumer
8 report containing a patient’s paid medical debt or a medical debt of
9 less than \$500 regardless of the date it was incurred. A medical
10 creditor or medical debt collector shall not report a patient’s
11 medical debt to any consumer reporting agency for health care
12 services performed on and after the effective date of
13 P.L. , c. (C.) (pending before the Legislature as this bill).]¹

14
15 ¹3. a. A medical creditor or medical debt collector shall not report
16 a patient’s medical debt to any consumer reporting agency for health
17 care services performed on and after the effective date of
18 P.L. , c. (C.) (pending before the Legislature as this bill).

19 b. A consumer reporting agency shall not make any consumer
20 report containing a patient’s paid medical debt or a medical debt of
21 less than \$500 regardless of the date it was incurred.¹

22
23 4. a. Notwithstanding any provision of law or regulation to the
24 contrary, except as otherwise provided in subsection c. of this section,
25 a medical creditor or medical debt collector shall not engage in any
26 ²[permissible]² collection actions until ¹[180] 120¹ days after the
27 first bill for a medical debt has been sent ¹and the creditor or debt
28 collector has offered the ²[individual] patient² who owes the medical
29 debt a reasonable payment plan¹.

30 b. At least 30 days before taking any collection actions, a medical
31 creditor or medical debt collector shall provide to the patient at least
32 one additional bill and a notice containing the following:

33 (1) identifying the collection actions that will be initiated in order
34 to obtain payment; and

35 (2) providing a deadline after which such collection actions will be
36 initiated, which date is no earlier than 30 days after the date of the
37 notice.

38 c. ¹Any communication made by a medical creditor or medical
39 debt collector to a patient in the course of trying to collect a medical
40 debt shall include a statement, in at least 14-point boldface font, that
41 the medical creditor or medical debt collector has not reported the debt
42 to a consumer reporting agency and that if the debt, or any part of it,
43 has been reported to a consumer reporting agency, the portion reported
44 is void.

45 d. ¹A medical ¹[debtor may] creditor shall not¹ sell ²[an
46 individual's] a patient's² debt to another party unless, prior to the sale,
47 the medical creditor has entered into a legally binding written

1 agreement with the medical debt buyer of the debt pursuant to which
 2 the medical debt buyer or collector is prohibited from engaging in any
 3 actions in paragraphs (2) and (3) of the definition of “collection
 4 action” in section 2 of P.L. , c. (C.) (pending before the
 5 Legislature as this bill) and from otherwise seeking to obtain payment
 6 for the health care service.

7 ²[1d.] e.² (1) A medical creditor or medical debt collector
 8 shall not engage in any ²[permissible]² collection actions against a
 9 patient who accepts and complies with the terms of a reasonable
 10 payment plan offered by the medical creditor or medical debt collector
 11 pursuant to this section. A medical creditor or medical debt collector
 12 shall not charge an interest rate of more than three percent per annum
 13 on late payments to a medical debt subject to a reasonable payment
 14 plan and shall provide a grace period of at least ²[90] 60² days for late
 15 payments.

16 (2) Acceptance of a reasonable payment plan pursuant to this
 17 section by a patient shall not constitute an admission that the debt is
 18 valid. A patient who accepts a reasonable payment plan shall retain
 19 any legal defenses that would otherwise be available in a
 20 ²[permissible]² collection action.¹

21
 22 ¹5. A medical creditor or medical debt collector shall not:

23 a. charge an interest rate on a medical debt of more than three
 24 percent per annum. The interest rate that shall apply to any judgment
 25 on medical debt shall be calculated pursuant to applicable court rules
 26 but shall not exceed three percent; ²or²

27 b. garnish the wages of ²[an individual] a patient with annual
 28 income less than 600 percent of the federal poverty level² to collect
 29 medical debt owed by that ²[individual; or

30 c. place a lien on an individual’s primary residence or personal
 31 property to collect medical debt owed by that individual. This
 32 subsection shall not apply to any nursing home providing health care
 33 services and to whom a patient owes money for health care services]
 34 patient².¹

35
 36 ¹[5.] 6.¹ a. A medical creditor or medical debt collector that
 37 knows ²[or reasonably should know]² that an internal review,
 38 external review, or other appeal of a health insurance decision
 39 which provides the basis for a medical debt is pending ²[now or
 40 was pending within the previous 60 days]² shall not:

41 (1) communicate with the patient regarding the unpaid charges
 42 for health care services for the purpose of seeking to collect the
 43 charges; or

44 (2) initiate a lawsuit or arbitration proceeding against the patient
 45 relative to unpaid charges for health care services.

46 b. If a medical debt has already been reported to a consumer
 47 reporting agency and the medical creditor or medical debt collector

1 who reported the information learns of an internal review, external
2 review, or other appeal of a health insurance decision which
3 provides the basis for a medical debt is pending ²【now or was
4 pending within the previous 60 days】², or learns that the medical
5 debt has been paid, the medical creditor or medical debt collector
6 shall instruct the consumer reporting agency to delete the
7 information about the debt.

8 c. A medical creditor that knows ²【or reasonably should
9 know】² about an internal review, external review, or other appeal of
10 a health insurance decision that is pending ²【now or was pending
11 within the previous 60 days】² shall not refer, place, or send the
12 unpaid charges for health care services to a medical debt collector,
13 including by selling the debt to a medical debt buyer.

14

15 ¹【6.】¹ 7.¹ a. Any portion of a medical debt that is furnished to a
16 consumer reporting agency in violation of the provisions of
17 P.L. , c. (C.) (pending before the Legislature as this bill) shall be
18 void.

19 b. It shall be ²【an unlawful practice and】² a violation of
20 ²【P.L.1960, c.39 (C.56:8-1 et seq.)】 P.L.1997, c.172 (C.56:11-28 et
21 seq.)² for a medical creditor or medical debt collector to undertake a
22 collection action in violation of the provisions of P.L. , c. (C.)
23 (pending before the Legislature as this bill).

24 ²c. In addition to the assessment of civil penalties, the Attorney
25 General or the Attorney General's designee may, after a hearing and
26 upon a finding of a practice in violation of P.L. , c. (C.)
27 (pending before the Legislature as this bill), order that any moneys or
28 property, real or personal, which have been acquired by means of the
29 practice in violation of P.L. , c. (C.) (pending before the
30 Legislature as this bill) be restored to any person in interest.

31 d. Notwithstanding any provision of P.L.1997, c.172 (C.56:11-28
32 et seq.) to the contrary, the Office of the Attorney General shall have
33 sole and exclusive authority to enforce a violation of P.L. , c.
34 (C.) (pending before the Legislature as this bill) and nothing in
35 P.L. , c. (C.) (pending before the Legislature as this bill) shall
36 be construed as providing the basis for a private right of action arising
37 solely from a violation of P.L. , c. (C.) (pending before the
38 Legislature as this bill).

39 e. In any instance where the provisions of this section conflict
40 with the provision of P.L.1997, c.172 (C.56:11-28 et seq.), the
41 provisions of this section shall prevail.²

42

43 ¹【7.】¹ 8.¹ The provisions of this act shall be severable; and if
44 any phrase, clause, sentence, or provision is deemed unenforceable,
45 the remaining provisions of this act shall be enforceable. The
46 provisions of this act shall be liberally construed to effectuate its
47 purposes.

1

2 ¹~~8.~~ ¹9. ²~~This~~ Sections 3 and 7 of this ² act shall take effect

3 ¹~~immediately~~ ²~~on the 180th day~~ immediately and the remainder

4 of this act shall take effect one year ² following the date of

5 enactment¹.